

## Hazardous Waste Regulation Stakeholder Group November 18, 2004 Meeting Notes

Meeting Participants: P. Raftery, M. Reilly, G. Ezovski, W. Morris, D. Albro, S. Carney, M. Dennen, L. Grandchamp and T. Getz

The meeting began with a quick review / discussion of Sections 15.05-15.07 of the regulations that were discussed at the previous meeting. Sean Carney also walked the group through Sections 15.08 and 15.09 of the proposed regulations. The following points were made at the meeting:

Section 15.05 (b) and (c) – What is an aggregation point? Should this be an area? A proposal was made to drop the word designated in these sections

Section 15.06 – Will the state charge fees to other state or municipal entities?

Section 15.07 (j)- Increase the storage of used oil on properly permitted trucks to be expanded from 24 to 72 hours. DEM will also propose increasing the time for hazardous waste stored on properly permitted trucks too. DEM indicated that the regulations would be clarified to indicate the material must stay on the truck and will not be allowed to be transferred during this time period.

Section 15.07 (c) 6– A question was raised if a transporter could spec material on a truck and send the load directly to a burner.

Section 15.07 (j) 3 – Should liability insurance be based on facility capacity?

Section 15.07 (j) 6 – DEM should consider lowering the application fee. This is a disincentive for people to operate a used oil temporary storage facility.

Section 15.07 (j) 9 – DEM should consider keeping the same requirements for temporary storage for hazardous waste and would encourage DEM to develop one application that applies to both hazardous and used oil facilities.

Section 15.08 (e) – Comments were made that the fee was too high for this activity and this is a disincentive for people to be in the business. A comment was made that if this is not a significant revenue stream for the department, the fees should be lowered. In addition this is not a complicated permit to review that would justify the proposed fee.

A participant asked if DEM had the ability to not renew a permit for non-performing facilities. DEM responded there are procedures outlined in DEM's Administrative Adjudication Division regulation that explains that process. In addition, Sean indicated this issue is covered in Section 7.09 of the regulations.

Section 15.08 (n) – DEM was questioned on how it developed the 4 feet aisle spacing. It was suggested that DEM should drop this to three feet since that is the NFPA 30 standard. DEM

agreed to look into the spacing issue and will check with the State Fire Marshall's Office to see if there are any state requirements for aisle spacing.

Section 15.08 (r) (2) a – This rule should allow for DEM to accept other approved analytical methods including those approved by EPA and SWA 46.

Section 15.08 (t) – It was not clear if financial assurances or the extent of them were being required. This issue should consider that used oil is a commodity and closure requirements should not be the same as a waste facility, where there are more issues concerning the final disposition of hazardous waste. A question was raised concerning DEM's consideration of a closure bond and would this requirement be included in the regulation.

The next topic discussed was the issue of revising the fee structure. DEM handed out a draft document that included four proposals, i.e.:

1. Exempt waste oil, not mixed with other hazardous waste, from the fee. For this discussion, this waste stream was estimated to be reduced by approximately 25%. This is based on an estimate that wastes having the word oil in the manifest code represents 34% of the waste stream. In addition 16% is MA waste. Therefore the exact figure for waste oil is somewhere in between.

If this approach were adopted, the proposal would remain revenue neutral by taking one of the following actions:

- a. Raise the fee, by 25% on other hazardous wastes to compensate for the loss of revenue. In order to stay revenue neutral, the HW fee would have to increase by 28%. The new fee would be \$0.026/lb or \$0.2/gal.
  - b. Increase the universe of waste that is subject to the fee. The original proposal for fees included a fee on out of state wastes transported to Rhode Island. This waste is believed to represent approximately 25% of the waste stream.
2. Exempt only waste oil that is required to be on a manifest. This would result in a smaller loss of fees. A difficulty in this approach is that it requires the Department to know whether a waste is required by another state to be on a manifest or is voluntarily put on a manifest. This would be expected to exempt most of the MA01 and MA99 waste streams (believed to be about 16% of the total). Some other waste that goes to other states may also be exempt. The revenue loss would have to be offset as discussed above but by a smaller amount. Hazardous waste fees would have to increase to \$0.023 /lb. or 18.6 cents / gallon. There was a suggestion to require DEM to charge a fee only on Massachusetts's hazardous waste that is manifested in Rhode Island.
  3. Continue with the current approach. The advantage of the current approach is from a fiscal standpoint, it is approximately on target. The disadvantage is that DEM originally projected that waste oil would be exempt from the fee. Also, it puts some facilities at a disadvantage if they are required to put waste on a manifest by the destination state

(thereby making the fee applicable to their waste but not identical waste going to other states).

4. Assess a fee for all waste oil, regardless of whether or not it is on a manifest, but at a lower rate than is now charged. The lower fee would be assessed to cover the cost of administering the program including tracking the oil manifested. It was noted during the discussion that DEM does not keep track of bills of lading and is not sure of the amount of material handled in the state. In addition, this approach is would be difficult to enforce and would be an administrative burden to implement.

A fifth alternative was discussed and it was suggested that DEM should charge a fee for large waste-oil burning sources.

The group thought that alternative 2 had merits if DEM only charged fees on hazardous waste that was on the manifest. The group also thought that DEM should invite members from the Hazardous Waste Generators Transporters Fee Task Force to discuss the changing of the existing fee structure.

DEM will invite members of the Hazardous Waste Generators Transporters Fee Task Force to the next meeting that will be held on December 9<sup>th</sup>. The group was also requested to send any comments concerning the regulations to Sean Carney, before the next meeting.